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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,718	03/25/2004	Gerrit Reinold J. Melles	05032-00052	5646
22910 7590 01/30/2007 BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			EXAMINER MILLER, SAMANTHA A	
			ART UNIT	PAPER NUMBER
			3749	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/808,718

Applicant(s)

MELLES, GERRIT REINOLD J.

Examiner

Samantha A. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/23/2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/7/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the hand drawn figure are not clear and often cluttered to displaying the claimed invention. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-12, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Howorth (3,602,212). Howorth teaches in the specification and Figs. 1-3 an invention in the same field of endeavor as applicant's invention that is described in the applicant's claims.

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Howorth teaches:

1. An operation unit (Fig.1) (col.1 l.24), comprising a wall (col.1 l.25) and an air flow unit (b1) (col.1 ll.27-29), said air flow unit being provided with means for filtering (d) said air (col.2 ll.3-6 and ll.30-31) (Fig.3), said wall being provided with at least one opening (col.1 ll.44-47) and a cover, covering at least part of said opening (a2) (col.1 ll.40-43), said air flow unit comprising at least one air outlet opening (B) for directing air from said air flow unit (b1) over said cover (col.2 ll.20-26), air inlet (b) means preferably being provided for retracting air to said air flow unit (col.2 ll.20-26) (Fig.1).

2. At least two side walls (col.1 l.25), a roof element (a1) and a back wall (a3) are provided for enclosing a space in which at least said air outlet (B) and said air inlet (b) are provided, said space being sufficient for enclosing at least a person (col.1 ll.44-61) (Fig.1 and 3).

3. The operation unit is at least partly foldable (being made of draped material a2 and lower panels hinged to upper panels) (col.1 ll.48-55).

4. The sidewalls are foldable over and/or against said flow unit (b) (hooked on rails in ceiling can fold up) (col.2 l.44-47), the back wall preferably being foldable (lower panel hinged and drape material) (col.1 ll.59-61).

5. The cover is substantially made of cloth/sheet, especially a surgery blanket/sheet (col.1 ll.40-43) (Fig.3).

6. The opening is dimensioned such that at least an end of a hospital bed, stretcher or the like can be inserted through said opening under said cover (col.1 ll.45-47).

7. The opening is dimensioned such that an extremity of a person can be inserted at least partly through said opening under said cover (col.1 ll.45-47).

8. The outlet opening (B) extends over at least the width of said at least one opening (Fig.1 shows multiple B extending width wise) (Fig.3 shows size of opening width wise).

9. The outflow direction of said outflow opening is directed downward in a direction away from said wall/drape (a2) (col.2 ll.34-37).

10. The air inlet opening (around operating table) is situated lower than said outflow opening (B) (Fig.3).

11. The openings are provided near the ground for connection of an inner space of said unit and the surrounding (col.1 ll.48-53).

12. At least part of said wall and preferably part of said wall and at least part of side walls and a back wall of said unit are made transparent (col.1 l.25).

14. The air flow unit (b1) is provided near the upper end of said wall and is connected to the air outlet (B) by a first connecting pipe (B duct) and to the air inlet (b) by a second connecting pipe (b duct) (Fig.1), said connecting pipes being provided near either side of said wall, preferably such that said connecting pipes and said air flow unit form part of a frame of said operation unit (Fig.1).

15. A method for preparing a person for surgery, in which said person is positioned on a bed, stretcher, chair or the like supporting structure, whereby part of the body of said person on which surgery is to be performed is moved through an opening under a cover (col.1 ll.43-45), especially a cloth/sheet, an opening being provided in

said cloth disclosing an operation area, a flow of substantially sterile air being guided over said cover and at least said operating area (col.2 ll.31-40).

16. The air is re-circulated through a flow unit filtering said air for sterilization purposes (col.2 ll.31-40).

17. The part of said body is moved through an opening in a wall of an operation unit comprising a wall and an air flow unit, said air flow unit being provided with means for filtering said air, said wall being provided with at least one opening and a cover, covering at least part of said opening, said air flow unit comprising at least one air outlet opening for directing air from said air flow unit over said cover, air inlet means preferably being provided for retracting air to said air flow unit (col.1 ll.27-29) (col.2 ll.20-26) (Fig.2).

18. A method for performing surgery on a person, in which said person is positioned on a bed, stretcher, chair or the like supporting structure, whereby part of the body of said person on which surgery is to be performed is moved through an opening under a cover, especially a cloth/sheet, an opening being provided in said cloth disclosing an operation area, a flow of substantially sterile air being guided over said cover and at least said operating area (col.2 ll.31-40) (Fig.3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howorth in view of van der Waaij (3,893,457).

Howorth teaches the invention as discussed above. However, Howorth does not teach a foldable roof element or wheels.

van der Waaij teaches:

4. The sidewalls (15) and roof element (14) are foldable over and/or against said flow unit (1) (col.4 ll.34-43).

13. The unit (1) is provided with wheels for easy displacement of said unit (col.3 ll.42-51).

Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to have modified the operation unit of Howorth in view of the teaching of van der Waaij in order to be adapted to be placed at on extremity of an arbitrary existing operation table and to close the operating space (van der Waaij, col.3 ll.42-51 and col.4 ll.34-43).

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. As listed on PTO-892.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272-9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Josiah Cocks can be reached on 571-272-4874. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2:17-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system call 8002786-91~99 (IN USA OR CANADA) or 571-272-1000.


Samantha Miller
Examiner
Art Unit 3749
1/23/2007


JOSIAH C. COCKS
PRIMARY EXAMINER